IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 6462 of 2006(T)

PETITIONER:

PURUSHOTHAMAN,
KURUMBIL, WARD NO.9,
THURAVOOR.P.O, CHERTHALA.

BY ADV. SRI.J.OM PRAKASH

RESPONDENTS:

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1. THE STEEL INDUSTRIALS KERALA LIMITED
(SILK), ATHANI.P.O, THRISSUR,
REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE MANAGER, GENERAL ENGINERING WORKS,
SKK, THURAVOOR, ALAPPUZHA.

3. THE REGIONAL PROVIDENT FUND COMMISSIONER
KERALA, THIRUVANANTHAPURAM.

4. THE REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEE PROVIDENT FUND ORGANISATION,
BHAVISHYANIDHI BHAVAN, KALOOR,
KOCHI-17.

5. THE ASSISTANT PROVIDENT FUND
COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
KALOOR, KOCHI-17.

BY ADV. SRI.N.N. SUGUNAPALAN, SC, P.F.
SMT.T.N.GIRIJA, SC,EPF ORGANISATION
SRI.B.S.KRISHNAN (SR.)
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).6462/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- A TRUE COPY OF THE RELIEVING ORDER DATED 30.10.04 OF THE MANAGER, SILK, GENERAL ENGINEERING WORKS.

EXT.P2- A TRUE COPY OF THE LETTER OF THE MANAGER, SILK, GENERAL ENGINEERING WORKS DATED 30.10.04

EXT.P3- A TRUE COPY OF THE COMMUNICATION OF THE 5TH RESPONDENT DATED 4.1.05

EXT.P4- A TRUE COPY OF THE EXTRACT OF THE ADMISSION REGISTER ISSUED BY THE HEADMASTER THURAVOOR WEST, U.P. SCHOOL DATED 10.9.68

EXT.P5- A TRUE COPY OF THE REPRESENTATION OF THE PETITIONER DATED 1.2.05

EXT.P6- A TRUE COPY OF THE LETTER OF THE 4TH RESPONDENT DATED 15.2.2005

EXT.P7- A TRUE COPY OF THE LETTER OF THE 5TH RESPONDENT DATED 6.7.05

EXT.P8- A TRUE COPY OF THE LETTER OF THE 5TH RESPONDENT DATED 8.12.05

(TRUE COPY)

P.A TO JUDGE

THOTTATHIL B. RADHAKRISHNAN, J

W.P.(C). 6462/2006

Dated this 24th day of September, 2007

JUDGMENT

Petitioner was employed as an unskilled labourer in the service of the first respondent. His statutory benefits under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and the claim therein were reckoned on the basis that his date of birth is 26.10.1947. Noticing the error, petitioner produced Ext.P4 extract from the school register and made Ext.P5 representation for rectification of the error. He thereby wanted his date of birth to be noted as 11.3.1122 ME corresponding to 27.10.1946 AD. RPF Commissioner, Cochin, addressed the competent statutory authority, the fourth respondent, stating that the first respondent, SILK, which is a Kerala Government undertaking has also confirmed the date of birth of the petitioner as 26.10.1946 and requested that the date of birth of the petitioner may be shifted as 26.10.1946 from 26.10.1947. Ext.P7 verification report was also sent in confirmation thereon. However, by the impugned Ext.P8 the petitioner was

informed that the competent authority has not given the permission to shift the date of birth of the petitioner as 27.10.1946. However, that decision does not reflect any reason for the same, on the teeth of the materials placed on record and the recommendations made by the first respondent, employer.

2. First respondent, employer, has recommended that the age of the petitioner is rightly shown as 27.10.1946. This is corroborated by the certificate issued by the school, where the petitioner last attended. He also applied for the benefit of re-fixing his date of birth on the basis of the School certificate. He belongs to a marginalised category of unskilled labourers and it is inappropriate in the circumstantial context to mulct him with any responsibility for the errors in the records. While there is no categoric material with the EPF organisation to dispute the veracity of the petitioner's claim, his employer, the first respondent, stands to approve the claim of the petitioner.

Under such circumstances, this writ petition is allowed declaring that the age of the petitioner shall be taken as 27.10.1946 by the respondents and his benefit in terms of Employees Provident Fund and Miscellaneous Provisions Act, 1952, and all claims thereunder shall be issued and made available to him on such basis.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE

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